

1 Steele N. Gillaspey, Esq.
State Bar No. 145935
2 **GILLASPEY & GILLASPEY**
The NBC Tower
3 225 Broadway, Suite 2220
San Diego, California 92101
4 Telephone: 619.234.3700
Attorney for Plaintiff.
5 **STORZ PERFORMANCE, INC.**

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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 **STORZ PERFORMANCE, INC.,**)
a California corporation,)

11)
12) Plaintiff,

13 vs.)

14 **MOTO ITALIA, form unknown;**)
LESLIE BULL, an individual;)
15 **CYCLE PERFORMANCE**)
PRODUCTS, INC.; JOHN BASORE,)
an individual, and, DOES 1 to 100,)
16 Inclusive,)

17) Defendants.)
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Case No. 3:07-CV-02242 W (WMC)

REQUEST TO ENTER DEFAULT OF:

MOTO ITALIA

26 Honorable Thomas J. Whelan
United States District Court Judge

27 Honorable William McCurine, Jr.
United States Magistrate Judge

28
STORZ v MOTO ITALIA

REQ DEFAULT MOTO 3:07CV02242

1 **TO THE CLERK OF THIS HONORABLE COURT:**

2 Plaintiff Storz Performance, Inc. hereby and herewith respectfully requests that the Clerk
3 of this Honorable Court enter **DEFAULT** in the above entitled cause and action against Defendant
4 **MOTO ITALIA** in accordance with, *inter alia*, F.R.Civ.P., Rule 55(a) and upon the ground that
5 said Defendant has failed to appear or otherwise respond to the Complaint within the time prescribed
6 by the Federal Rules of Civil Procedure.

7 Plaintiff herein, Storz Performance, Inc. served the Complaint in this cause of action upon
8 Defendant **MOTO ITALIA** on February 25, 2008 as evidenced by the Proof of Service on file with
9 this Honorable Court.

10 In accord with F.R.Civ.P., Rule 55(a), Plaintiff respectfully submits the declaration of Steele
11 N. Gillaspey in support, concurrently with the filing hereof.

12 Respectfully submitted,

13 DATED: March 18, 2008

14 GILLASPEY & GILLASPEY

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16 By: /s/ Steele N. Gillaspey

17 Steele N. Gillaspey, Esq.,
18 Attorney for Plaintiff,
19 STORZ PERFORMANCE, INC.
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1 I, the undersigned, do declare that I am employed in the county aforesaid; that I am over the
 2 age of eighteen [18] years and not a party to the within entitled action; and that I am executing this
 proof at the direction of a member of the bar of the above entitled Court. The business address is:

3 GILLASPEY & GILLASPEY
 4 The NBC Tower, 225 Broadway, Suite 2220
 San Diego, California 92101

5 ☒ MAIL. I am readily familiar with the business' practice for collection and processing
 6 of correspondence for mailing via the United States Postal Service and that the correspondence
 would be deposited with the United States Postal Service for collections that same day.

7 ☐ FACSIMILE. I am readily familiar with the business' practice for collection and
 8 processing of correspondence for electronic transmission and that the correspondence was
 successfully transmitted by facsimile that same day in the ordinary course of business.

9 ☐ OVERNIGHT. I am readily familiar with the business' practice for collection and
 10 processing of correspondence for overnight delivery/receipt next day via a major carrier such as
 UPS, FED EX, DHL or similar carrier, and same were deposited that same day.

11 ☐ ELECTRONIC. I am readily familiar with the business' practice for collection and
 12 processing of documents via its electronic (e-mail) system and said documents were successfully
 transmitted via e-mail that same day.

13 ☐ PERSONAL. The below described documents were personally served that day.

14 On the date indicated below, I served the within:

15 REQUEST FOR DEFAULT (MOTO ITALIA)

16 The above documents were served as set forth above and addressed as follows:

17 John Basore
 2724 Spring Garden Road
 18 Winston-Salem, N.C. 27106

Leslie Bull
 1060 Petaluma Boulevard N.
 Petaluma, CA 94952

19 Cycle Performance Products, Inc
 2724 Spring Garden Road
 20 Winston-Salem, N.C. 27106

Moto Italia
 1060 Petaluma Boulevard N.
 Petaluma, CA 94952

21 I declare under penalty of perjury, under the laws of the United States, that the foregoing is
 22 true and correct and was **EXECUTED** on March 19, 2008 at San Diego, California.

23 /s/ Toni L. Mathias

24

Toni L. Mathias

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8 **UNITED STATES DISTRICT COURT**
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17 Defendants.)
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Case No. 3:07-CV-02242 W (WMC)

**DECLARATION OF
STEELE GILLASPEY
IN SUPPORT OF**

**REQUEST TO ENTER DEFAULT OF:
MOTO ITALIA**

Honorable Thomas J. Whelan
United States District Court Judge

Honorable William McCurine, Jr.
United States Magistrate Judge

1 I, STEELE N. GILLASPEY, do state and declare as follows:

2 1. I am an attorney admitted to practice before the bar of this Honorable Court, and in
3 such capacity do represent the Plaintiff in the above entitled cause.

4 2. On February 25, 2008 at 10:21 a.m., Defendant Moto Italia, located at 1060 Petaluma
5 Boulevard N., Petaluma, California was personally served with the Summons and Complaint in the
6 above entitled action. Kevin D. Ardoin, process server, executed a Return of Service under penalty
7 of perjury, which document is on file with this Honorable Court.

8 3. The time allowed by the Federal Rules of Civil Procedure for Moto Italia to respond
9 to the Complaint in this action has expired.

10 4. No request for extension of time was made by Defendant Moto Italia, nor was any
11 extension of time granted by Plaintiff.

12 5. Defendant Moto Italia has failed to file a pleading or motion permitted by law in
13 response to the Complaint

14 I declare, under penalty of perjury under the laws of the United States, that the foregoing is
15 true and correct. Executed at San Diego, CA on March 18, 2008.

16 / s / STEELE N. GILLASPEY
17 _____

18 STEELE N. GILLASPEY
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I, the undersigned, do declare that I am employed in the county aforesaid; that I am over the age of eighteen [18] years and not a party to the within entitled action; and that I am executing this proof at the direction of a member of the bar of the above entitled Court. The business address is:

GILLASPEY & GILLASPEY
The NBC Tower, 225 Broadway, Suite 2220
San Diego, California 92101

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GILLASPEY DEC RE: DEFAULT (MOTO ITALIA)

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Winston-Salem, N.C. 27106

Leslie Bull
1060 Petaluma Boulevard N.
Petaluma, CA 94952

Cycle Performance Products, Inc
2724 Spring Garden Road
Winston-Salem, N.C. 27106

Moto Italia
1060 Petaluma Boulevard N.
Petaluma, CA 94952

I declare under penalty of perjury, under the laws of the United States, that the foregoing is true and correct and was **EXECUTED** on March 19, 2008 at San Diego, California.

/ s / Toni L. Mathias

Toni L. Mathias